

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Winsome Thelwell as BD	Team: Squad #3	CCRB Case #: 201501403	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/26/2015 5:15 AM	Location of Incident: § 87(2)(b)	Precinct: 66	18 Mo. SOL 8/26/2016	EO SOL 8/26/2016	
Date/Time CV Reported Thu, 02/26/2015 12:08 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 02/26/2015 12:08 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Paul Padilla	13108	952134	066 PCT
2. POM Karol Smiarowski	13279	952248	066 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Paul Padilla	Abuse: PO Paul Padilla entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Karol Smiarowski	Abuse: PO Karol Smiarowski entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Case Summary

On February 26, 2015, § 87(2)(b) filed this complaint with the CCRB via the on-line website.

On February 26, 2015, at approximately 5:15 a.m., § 87(2)(b) was in bed with her boyfriend, § 87(2)(b) at her residence at § 87(2)(b) when she heard her outside doorbell ring. § 87(2)(b) was not expecting anyone over, so she did not answer. Approximately five minutes later, § 87(2)(b) heard someone turning the doorknob of her front door back and forth. § 87(2)(b) told § 87(2)(b) to go see what was happening. § 87(2)(b) ran to the door and saw two officers, one of whom had opened the door and stuck a foot through the door (**Allegation A**). The officers did not enter further and instead closed the door and walked towards the building's exit. § 87(2)(b) opened the door and asked the officers, identified by the investigation as PO Paul Padilla and PO Karol Smiarowski, what they were doing. The officers said someone called for an ambulance, which § 87(2)(b) and § 87(2)(b) said was not true. The officers then went down the hallway and left the building. The officers saw paramedics bringing an individual to the ambulance from § 87(2)(b), whose entrance was located around the corner from § 87(2)(b).

Mediation, Civil and Criminal Histories

- Mediation was offered to § 87(2)(b) during her telephone statement on March 2, 2015 and again during her interview at the CCRB on March 11, 2015. § 87(2)(b) rejected mediation both times § 87(2)(b).
- As of April 3, 2015, neither § 87(2)(b) nor § 87(2)(b) has filed a notice of claim with the NYC Comptroller's office in regards to this incident (encl. 15F).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3A).
- This is the first CCRB complaint filed against PO Padilla during his 3 year tenure (encl. 2A).
- This is the first CCRB complaint filed against PO Smiarowski during his 3 year tenure (encl. 2B).

Findings and Recommendations

Allegation A: PO Paul Padilla entered § 87(2)(b) in Brooklyn.

Allegation B: PO Karol Smiarowski entered § 87(2)(b) in Brooklyn.

§ 87(2)(b) stated that she heard the officers force her locked door open, but she never left her bed and did not personally see the officers enter the apartment. § 87(2)(b) stated that as he rushed towards the door, he saw at least one officer step into the apartment and poke his head through the open door. § 87(2)(b) was not sure which officer or whether one or two officers had entered the apartment because no lights were on and he was not wearing his glasses. The officers told § 87(2)(b) that someone had called for an ambulance and § 87(2)(b) told them that neither he nor § 87(2)(b) did so.

PO Padilla and PO Smiarowski stated that they received a radio run for a person who had difficulty breathing at § 87(2)(b). Neither of them could recall whether this radio run specified an apartment number. When they arrived at the location, they saw an empty ambulance parked at the corner. The closest door to the corner, which they initially believed to be § 87(2)(b), did not have any markings on it indicating its

address. The officers entered § 87(2)(b) and PO Padilla opened the door to Apt. § 87(2)(b) which he stated was unlocked. PO Padilla stated that neither he nor PO Smiarowski stepped into the apartment. PO Smiarowski did not recall whether he or PO Padilla crossed the threshold into the apartment, but noted that neither of them walked further into the apartment. The officers did not see anyone and then closed the door. § 87(2)(b) exited the apartment and PO Padilla told him that someone had called for an ambulance and that they were looking for an individual who had difficulty breathing. They then exited the building and saw paramedics bringing an individual to the ambulance from § 87(2)(b).

The Event Information Sheet (encl. 11B) reveals that a 911 call was made for an individual who had chest pain and difficulty breathing at § 87(2)(b). Screen captures from Google Maps Street View (encl. 4A-B) show that § 87(2)(b) has no markings on its door indicating its address, but the awning of the storefront directly adjacent to the door identifies the building's address as § 87(2)(b). This awning sits over both the storefront and the door. These screen captures also show that the entrance to § 87(2)(b) is located around the corner of § 87(2)(b).

Officers may enter a private residence without a warrant if they have “reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property,” if their search is not “primarily motivated by intent to arrest or seize evidence,” and if there is “some reason, approximating probable cause, to associate the emergency with the area or place to be searched.” People v. Dallas, 8 N.E.3d 890 (2007) (encl. 1A-B)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted]
[Redacted] [Redacted]

§ 87(2)(g) [Redacted]
[Redacted].

Pod: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date